IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 663 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DILIPBHAI NATVERLAL KOTHARI

Versus

CHANDRAKANT NATVERLAL KOTHARI

Appearance:

1. Appeal from Order No. 663 of 1995

MR JASHWANT SHAH for MR HARIN P RAVAL for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 02/11/2001

ORAL JUDGEMENT

The appellant-original defendant has challenged in this appeal the impugned order dated 21.11.1995 passed below notice of motion Ex.6 in Special Civil Suit No.5643/95 restraining him, his agents from entering in

the disputed business premises of the plaintiff bearing Municipal Census No.1122/1-2 and/or disturbing the plaintiff from doing his business therein. However, the learned Trial Judge made it clear that the interim order shall not affect the interest of the defendant regarding co-ownership of the immovable property.

This appeal was admitted on 23.4.1996 by the learned Single Judge of this court. Along with this appeal, Civil Application No.7223/95 was filed for interim relief. The parties agreed that they will jointly move the valuer for his report. Thereafter after hearing learned counsel for the parties, on the point of interim relief, interim relief was refused and Civil Application was rejected way back on 23.4.1996. Thus, the impugned order passed by the learned Trial Judge stands till today.

In view of the above and having regard to the peculiar facts and circumstances of the case, learned counsel Shri Shah for Haren Raval made only one request to dispose of this appeal without going into the legality and validity of the impugned order passed by the trial court with a direction to the learned Trial Judge to decide the Civil Suit No.5643/95 as early as possible. The request seems to be genuine, therefore, granted.

Accordingly, this appeal is disposed with direction to the learned Trial Judge to decide the Civil Suit No.5643/95 as early as possible and not later than 31.12.2002. Parties shall fully cooperate with the final disposal of the suit.

(B.J.Shethna, J.)
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